



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,069	08/26/2003	Neelima Atluri	NAI001	3378
28848	7590	11/21/2006	EXAMINER	
TOPE-MCKAY & ASSOCIATES 23852 PACIFIC COAST HIGHWAY #311 MALIBU, CA 90265			SILBERMANN, JOANNE	
			ART UNIT	PAPER NUMBER
			3611	

DATE MAILED: 11/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/648,069
Filing Date: August 26, 2003
Appellant(s): ATLURI, NEELIMA

MAILED

NOV 21 2006

GROUP 3600

Cary Tope-McKay
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 11 September 2006 appealing from the
Office action mailed 01 November 2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,393,100	COE	2-1995
5,261,702	MAYFIELD	11-1993
6,575,297	SCHUTTEN	6-2003

4,593,819

WILL

6-1986

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-4, 6-9, 14-18 and 23-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Coe, US #5,393,100 in view of Mayfield, US #5,261,702.

Coe teaches a card (Figure 2) including an illustrative portion having a photograph of a drug, 44. Coe shows instructions for taking the drugs, but these instructions do not include symbols. This however is well known in the art as shown by Mayfield. Mayfield teaches symbols 18 to assist in taking medications (Figure 2, showing the times of the day, and including stars). It would have been obvious to a person having ordinary skill in the art to utilize symbols, as in Mayfield, to convey the instructions in Coe so as to provide clear instructions for patients with poor eyesight.

Regarding claim 2, sheet 30 of Coe may be folded into a wallet sized, planar booklet.

Regarding claim 3, Mayfield teaches a sheet having a magnetic backing (column 2 lines 60-63).

Coe and Mayfield do not specifically teach using symbols for the instruction on how to take the medication, however it would have been obvious to one of ordinary skill to utilize symbols for this indicia to make it easier to read as well.

Art Unit: 3611

Claims 10-12, 19-21 and 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Coe and Mayfield as described above, and further in view of Schutten, US #6,575,297.

Coe and Mayfield do not teach contact information, precautions, allergies, etc. however this is well known in the art. Schutten teaches a drug card including such pertinent information (Figure 2). It would have been obvious to one of ordinary skill to place such pertinent information on the card so as to provide information to the user or other medical professionals.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Coe and Mayfield as applied to claim 1 above, and further in view of Will, US #4,593,819.

Coe and Mayfield do not teach using Braille, however this is well known in the art. Will teaches a medical chart including Braille thereon (Figure 2). It would have been obvious to one of ordinary skill in the art to utilize Braille on the card of Coe/Mayfield so that blind patients may use the card.

Claims 22 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Coe, Mayfield and Schutten as applied to claim 21 above, and further in view of Will.

It would have been obvious to utilize Braille on the card of Coe (as modified) so that blind patients may use the card.

(10) Response to Argument

Claim 1

Applicant argues that the art of reference does not teach or suggest a symbol-aided instruction on how to administer a medication. As discussed above, the use of symbols to convey information is shown by Mayfield. Mayfield specifically states that medical charts are difficult to read (column 1 lines 49-51) and that a system using symbols and color is easier to use (column 3 lines 37-39 and column 4 line 23). It would have been obvious to a person having ordinary skill in the art to replace the text of Coe with symbols, as taught by Mayfield, since Mayfield teaches using symbols to make instructions easier to follow.

Applicant also argues that the teaching or suggestion to make the claimed combination must be found in the prior art. The examiner recognizes that references cannot be arbitrarily combined and that there must be some reason why one skilled in the art would make the proposed combination. However, there is no requirement that a motivation to make the modification be expressly articulated. The test for combining references is what the combination of disclosures taken as a whole would suggest to one of ordinary skill in the art. In this instance, the combination of disclosures suggests using symbols instead of text to convey information.

Applicant further argues that the combination of Coe and Mayfield would produce a medical record on which information can be written and erased, and the present

Art Unit: 3611

invention requires fixed symbols. This argument is considered to be narrower than the existing claim language which recites "symbol-aided instruction" (claim 1).

Finally, Applicant argues that improvements on crowded prior art are patentable. The examiner does not disagree, however, all the structure of the instant claims is shown or suggested by the prior art of record.

Claim 2

Applicant first argues that the Coe reference does not teach an illustrative drug card or symbol-aided instruction or any references in the prior art to combine the sheet of Coe with such a card. The examiner addressed this argument above.

Applicant further argues that folding the Coe reference would produce a device unsatisfactory for its intended purpose. Applicant states that the folded device, as shown in Figure 4 (Coe) is not wallet sized or substantially planar. However, as discussed in the rejection, each sheet 30 is a card, and each such card may be folded. The folded card is considered to be "wallet-sized" since some wallets are very large.

Claims 6, 7, 15, 16, 24 and 25

Applicant believes that the examiner has misinterpreted the Mayfield patent because the examiner stated that Mayfield teaches using symbols to assist in taking medication. Applicant claims that symbols such as stars may be used to designate when to take the

Art Unit: 3611

medication. Mayfield shows symbols used to designate times to take medication (see Abstract). Some of the symbols are stars. If Applicant is attempting to claim a particular time of day as represented by the star (or sun, etc.) this is not indicated by the claims.

Claims 8, 9, 17, 18, 26 and 27

Applicant states that the examiner has not addressed the limitations in these claims. As per the above rejection, these claims have been rejected under Coe in view of Mayfield. It would have been obvious to one of ordinary skill in the art to utilize symbols to convey the information on the medical card. Regarding the particular image shown on the symbol, such as liquid or food, the particular designation or indicia on a symbol is a matter of design choice. The specific indicia on the symbol has been considered, however such indicia does not provide a new and unobvious relationship with the substrate (the card). Mayfield teaches using symbols of varying shape (column 2 line 29) on a card to convey information.

Regarding issues 2-4, Applicant has not provided any argument other than these claims are dependent on claim 1.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

Art Unit: 3611

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,


Joanne Silbermann

Conferees:

Lesley Morris 

Samuel Morano 